

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

KEITH MATTHEWS

PLAINTIFF

V.

CIVIL ACTION NO.2:04CV130-MPM-JAD

JIM COOKE, ET AL

DEFENDANTS

ORDER

On consideration of the file and records in this action, and on defendant's Motion for Summary Judgment, the Court finds that the Report and Recommendation of the United States Magistrate Judge dated October 31, 2005, was on that date duly served by first class mail upon the plaintiff and the attorneys of record for the defendants; that more than ten days have elapsed since service of said Report and Recommendation; and that no objection thereto has been filed or served by said parties. The Court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the Court. It is, therefore

ORDERED:

1. That the Report and Recommendation of the United States Magistrate Judge dated October 31, 2005, be, and it is hereby, approved and adopted, and that the proposed findings of fact and conclusions of law therein set out be, and they are hereby, adopted as the findings of fact and conclusions of law of the Court.

2. That the motion for summary judgment as to defendant Jim Cooke is **granted and he is dismissed with prejudice.**

3. That the motion of the defendant Lizar Polk is **denied**, without prejudice.

THIS the 11th day of January, 2005.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE